

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

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James Cabbagestalk, also)
known as Shaheen Cabbagestalk,)
)
Petitioner,)
)
v.)
)
Warden Michael McCall, Jr.,)
)
Respondent.)
_____)

Civil Action No. 3:11-2665-SB

ORDER

This matter is before the Court upon a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, which was filed on October 13, 2011, by Petitioner James Cabbagestalk, also known as Shaheen Cabbagestalk ("Cabbagestalk"). The Respondent filed a motion for summary judgment on November 23, 2011, following which the Court issued an order pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), advising the Petitioner of the summary judgment rules and procedures. On January 9, 2012, Cabbagestalk filed a response to the motion for summary judgments, and on June 26, 2012, Cabbagestalk filed a supplemental brief.

On July 7, 2012, United States Magistrate Judge Joseph R. McCrorey filed a report and recommendation ("R&R"), which was made in accordance with 28 U.S.C. 636(b)(1)(B). In the R&R, the Magistrate Judge outlines the procedural history and the facts of this case and notes that Cabbagestalk is still in the process of pursuing his state post-conviction relief ("PCR") remedies. Accordingly, the Magistrate Judge recommends that the Court grant the Respondent's motion for summary judgment and dismiss the instant section 2254 petition without prejudice to permit the Petitioner to exhaust his remedies. Attached to the

R&R was a notice advising the Petitioner of his right to file specific, written objections to the R&R within fourteen days after being served with a copy. To date, the Petitioner has not filed any written objections to the R&R.¹

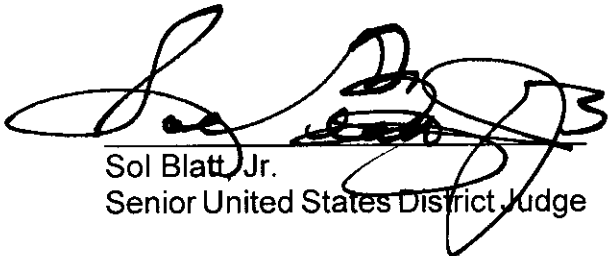
Absent timely objection from a dissatisfied party, a district court is not required to review, under a de novo or any other standard, a Magistrate Judge's factual or legal conclusions. Thomas v. Arn, 474 U.S. 140, 150 (1985); Wells v. Shriner's Hosp., 109 F.3d 198, 201 (4th Cir. 1997). Here, because no objections have been filed, the Court need not conduct a de novo review of any portions of the R&R. Accordingly, the Court hereby adopts the Magistrate Judge's R&R as the Order of this Court, and it is

ORDERED that the Respondent's motion for summary judgment (Entry 12) is granted, and the Petitioner's § 2254 petition is dismissed without prejudice so that he may continue to exhaust his state PCR remedies. Upon exhaustion, the Petitioner may re-file his section 2254 petition in this Court.

IT IS SO ORDERED.

#2

July 25, 2012
Charleston, South Carolina


Sol Blatt, Jr.
Senior United States District Judge

¹ On July 9, 2012, Cabbagestalk filed a one-page document titled "objection to summary judgment notice of request for all PCR continuance transcripts and 5-5-12 PCR court exhibits from Shaheen Cabbagestalk." (Entry 35.)